

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 10-20522
USDC No. 4:10-CV-667
USDC No. 4:06-CR-237-2

*United States Courts
Southern District of Texas
FILED*

FEB 09 2011

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EUGENE H. WILLIAMS, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas

O R D E R:

Eugene H. Williams, Jr., federal prisoner # 66170-179, seeks a certificate of appealability (COA) to appeal the dismissal of his 28 U.S.C. § 2255 motion challenging his convictions for three counts of possession of a firearm not registered to him, one count of possession of an unlawfully transferred firearm, one count of possession of a firearm not identified by serial number, and one count of unlawful storage of explosive materials. Williams argues that he was denied the effective assistance of trial counsel because counsel failed to present issues challenging the validity of the statutes of conviction, to challenge the lack of evidence to support his convictions, to argue that he did not knowingly possess firearms without serial numbers, and to argue that the explosive materials were

properly stored. Williams fails to renew his claim that he was denied the effective assistance of counsel because counsel failed to argue that the district court erred in refusing to instruct the jury on the public authority defense. Thus, the argument is abandoned. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

To obtain a COA, a prisoner must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). A movant satisfies the COA standard “by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Williams has failed to make this showing.

Williams’s motion for a COA is DENIED.

/s/ W. Eugene Davis
W. EUGENE DAVIS
UNITED STATES CIRCUIT JUDGE